

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.148 OF 1997

The Commissioner of Income Tax
Nasik .. Applicant.
V/s.
Jaibhavani SSK Limited, Godhi
Georal, Beed .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 19TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties.
The Tribunal has referred following questions for the
opinion of this Court, reading as under :

Whether on the facts and in the circumstances
of the case, the Tribunal relying on the
Special Bench decision in the case of Shri
Chhatrapati SSK Ltd. (198 ITR 78 -AT), was
right in deleting the following additions by
holding that the various funds and deposits
are not trading receipts of the assessee as
held by the Supreme Court in the case of
Bazpur Co-op. Sugar Factory Ltd. (172 ITR
321) ?

1. Non-refundable deposits	Rs.6,36,036
2. Cane development fund	Rs.6,34,424
3. Area development fund	Rs.3,58,740
4. C.M. Relief fund	Rs. 88,553
5. Drought relief fund	Rs.3,42,212
6. Hutment fund	Rs. 88,553

2. In so far as all other items except cane

development fund and area development fund are concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue. So far as cane development fund and area development fund are concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra). As such the said issues stand remanded back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)